

REMARKS/ARGUMENTS

Favorable reconsideration of this application in view of the following remarks is respectfully requested.

Claims 1-3 and 13-16 are pending in this application. In the outstanding Office Action, Claim 1 was rejected on the ground of non-statutory obviousness-type double patenting over Claim 2 of co-pending application 10/706,915.

With regard to the non-statutory double patenting rejection of Claim 1, this rejection is respectfully traversed in light of the Terminal Disclaimer submitted herewith.

The filing of a Terminal Disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The “filing of a Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.” *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicants’ filing of the attached Terminal Disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Consequently, for the reasons discussed in detail above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Attorney of Record
Registration No. 25,599

Kevin M. McKinley
Registration No. 43,794

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

668455_1.DOC